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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/826,109 | 04/04/2001 | Fumihiko Nishio | 7217/64311 | 2753 |

7590 06/28/2004

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| EXAMINER |
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ZHONG, CHAD

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| ART UNIT | PAPER NUMBER |
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2154

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DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,109

Applicant(s)

NISHIO ET AL.

Examiner

Chad Zhong

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-9 are presented for examination.
2. It is noted that although the present application does contain line numbers in specification and claims, the line numbers in the claims do not correspond to the preferred format. The preferred format is to number each line of every claim, with each claim beginning with line 1. For ease of reference by both the Examiner and Applicant all future correspondence should include the recommended line numbering.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Colby et al. (hereinafter Colby), 6,625,643.

5. As per claim 1, Colby teaches an information providing apparatus for registering a delivery of content data, comprising:

storing means for storing the content data provided (Fig 1); and

delivery designating means for designating a delivery condition for delivering the content data (Col. 28, lines 15-20; Col. 27, lines 31-37),

wherein a delivering apparatus presents data necessary for determining the delivery condition that is designated by the delivery designating means (Col. 28, lines 15-20; Col. 27, lines 31-37; Col. 25, lines 20-21; Col. 26, lines 25-30).

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6. As per claim 2, Colby teaches the information providing apparatus as set forth in claim 1, further comprising:

communicating means for transmitting the content data provided to the delivering apparatus (Col. 5, lines 60-67; Col. 8, lines 1-5).

7. As per claim 3, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery condition is a number of audiences for the content data delivered (Col. 5, lines 25-30).

8. As per claim 4, Colby teaches the information providing apparatus as set forth in claim 1, wherein the data necessary for determining the delivery condition is a delivery cost (Col. 5, lines 25-30).

9. As per claim 5, Claim 5 is rejected for the same reasons as rejection to claim 1 above.

10. As per claim 6, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving content data provided from an information provider (Fig 1);

storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user profile information from the receiving terminal unit (Col. 5, lines 25-35);

profile storing means for storing the user profile information (Fig 1; Col. 5, lines 25-35);

charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band used for delivering the content data (Col. 5, lines 25-35),

wherein the charging process controlling means pre-calculates a number of audiences for a content corresponding to the user profile information, calculates the cost corresponding to the delivery of the content data, and informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45).

11. As per claim 7, Colby teaches a delivering apparatus for delivering content data, comprising:

first communicating means for receiving the content data provided from an information provider (Fig 1);

storing means for storing the content data;

transmitting means for delivering the content data to a receiving terminal unit (Col. 28, lines 15-20; Col. 27, lines 31-37);

second communicating means for receiving user watching/listening history from the receiving terminal unit (Col. 5, lines 25-35; Col. 25, lines 20-21; Col. 23, lines 65-67; Col. 24, lines 1-6; Col. 7, lines 47-55; Col. 5, lines 25-37);

watching/listening history storing means for storing the user watching/listening history;

charging process controlling means for calculating a cost corresponding to the delivery of the content data (Col. 26, lines 24-29, lines 40-45); and

band controlling means for controlling a band of a network used for delivering the content data (Col. 5, lines 25-35),

wherein the charging process controlling means pre-calculates a number of audiences for the content data corresponding to the watching;

listening history, calculates the cost corresponding to the delivery of the content data, and

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informs an information providing apparatus of the cost (Col. 5, lines 25-35; Table 4; Col. 26, lines 24-29, lines 40-45).

12. As per claims 8-9, Claims 8-9 are rejected for the same reasons as rejection to claims 6-7 above respectively.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "INFORMATION PROVIDING APPARATUS, INFORMATION PROVIDING METHOD, DELIVERING APPARATUS, AND DELIVERING METHOD".

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| i. | US 6405239 | Addington et al. |
| ii. | US 6446108 | Rosenberg et al. |
| iii. | US 6219700 | Chang et al. |
| iv. | US 6512754 | Feder et al. |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (703) 305-0718. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703-305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


ZARNI MAUNG
PRIMARY EXAMINER